

1 **Daniel Berko – SBN 94912**
2 **819 Eddy Street**
3 **San Francisco, CA 94109**
4 **berkolaw@sbcglobal.net**
5 **Telephone: (415) 771-6174**
6 **Facsimile: (415) 474-3748**

7 **Attorney for Plaintiff TAMARA DOUKAS**

8 **THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **DIVISION OF SAN FRANCISCO**

11 TAMARA DOUKAS, an individual,

12 Plaintiff,

13 v.

14 COUNTY OF SAN MATEO, a public entity,
15 PENINSULA HUMANE SOCIETY, a private
16 non-profit organization, DEBI DENARDI, an
17 individual, KIM HADDAD, an individual,
18 KKH INC, a private entity, SPIKE REAL
19 STATE, a private entity, and DOES 1 through
20 50, inclusive,

21 Defendants.

CV 08 2336 SI

**PLAINTIFF TAMARA DOUKAS’
SEPARATE CASE MANAGEMENT
CONFERENCE STATEMENT**

Complaint Filed: May 6, 2008

22 Counsel for Plaintiff Tamara Doukas respectfully submits her Case Management
23 Statement which incorporates the Standing Order for All Judges of the Northern District of
24 California.

25 Plaintiff attempted to arrange a Joint Statement with the opposing parties for this second
26 Case Management Conference, but they ignored Plaintiff request by not even responding to the
27 email attached hereto as **exhibit “A”**.

28 Plaintiff TAMARA DOUKAS is represented by Attorney Daniel Berko.

Defendants DR. KIM HADDAD, KKH, INC. and SPIKE REAL ESTATE (hereinafter,
“Dr. Haddad”) are represented by Peter J. Van Zandt, Esq. and Brian S. Whittemore, Esq. of
Bledsoe, Cathcart, Diestel, Pederson & Treppa LLP. Defendants COUNTY OF SAN MATEO,

1 PENINSULA HUMANE SOCIETY and DEBI DENARDI are represented by Charles S. Custer,
2 Esq. and Jon Yonemitsu, Esq. of Gordon & Rees, LLP.
3 Defendants PENINSULA HUMANE SOCIETY and DEBI DENARDI are also represented by
4 Kevin Smith, Esq., of Bradley, Curley, Asiano, Barrabee & Crawford, P.C. and Dwight B. Bishop,
5 Esq., of Dwight B. Bishop, Inc.

6 1. Jurisdiction: Plaintiff alleges, among other things, violation of the Fourth, Fifth and
7 Fourteenth Amendment to the United States Constitution and violation of 42 U.S.C. 1983 relating
8 to the killing of her pet dog.

9 2. Facts:

10 *Plaintiff contends:*

11 Plaintiff took her pet dog of 13 years, Kodiak, to Haddad's clinic as a result of an acute
12 illness caused by eating chicken livers. Kodiak was first treated by Dr. Ulla who Defendants state
13 then sought a second opinion from Dr. Haddad regarding Kodiak's medical condition. Apparently,
14 Haddad came to the conclusion that the dog was simply dying of old age, was in significant pain,
15 and had to be immediately killed. Plaintiff, who is imminently completing her Ph.D. in
16 Microbiology at Stanford Medical School, vehemently disagreed that the dog had to be killed and
17 wanted to explore further treatment. Haddad, unbeknownst to Plaintiff, called Denardi, an animal
18 control officer for the Peninsula Humane Society (PHS) who came to the clinic. Denardi agreed
19 with Haddad that Kodiak had to be immediately killed and told Plaintiff she would be arrested for
20 felony animal abuse if she did not agree to the dog being immediately killed. Plaintiff requested
21 the right to seek a second opinion, but was refused. Over her objections, Haddad killed Kodiak
22 due to Denardi's order. Present were Plaintiff, Officer Denardi, and plaintiff's parents. In fact,
23 Plaintiff's parents were present much of the afternoon. They support Plaintiff's version of events.
24 Plaintiff has innumerable eyewitnesses that dispute Defendants' claim that the dog was in general
25 bad health or that there was any reason to euthanize him. Besides neighbors, roommates, friends
26 and family, Kodiak was seen by other veterinarians shortly before being killed and was
27 determined to be an elderly dog in general good health for his age.

28 Defendants' claims as to Kodiak's medical condition as being any indication of anything

1 other than a reaction to the liver fall apart under any but the most superficial examination. There
2 is also evidence that Denardi and Haddad have fixed ideas about how older animals should be
3 treated and killed and imposed them on Plaintiff.

4 3. Legal Issues:

5 What constitutional and statutory due process rights is a pet owner entitled to when the
6 state seeks to seize and kill the pet against the will of the owner who is present?

7 Whether plaintiff can recover emotional distress damages for loss of personal property.

8 Whether defendants are liable if their conduct is found simply negligent? If one or all
9 defendants are liable for negligence, what measure of damages applies?

10 Whether CC 52 and 52.1 are exceptions to the general rule that one is paid only once for
11 damages incurred and instead requires every culpable defendant to pay the damages awarded
12 under that statute even if that results in a double or greater recovery by Plaintiff?

13 Did Plaintiff violate Penal Code 597(b)?

14 Could any reasonable police officer believe that Plaintiff was guilty of a violation of
15 597(b)?

16 Did Denardi and Haddad violate Penal Code 597(b) when they killed Kodiak?

17 Whether the privileges contained in Business and Professions Code section 4830.7
18 apply to Haddad including whether or not such privilege extends to the act of killing Kodiak?

19 Whether the claims in this action relate back to the original state court filing?

20
21 4. Motions: Possible Motion for Summary Judgment. There are no pending motions
22 at this time. Motion to Amend the Complaint.

23 5. Amendment of Pleadings: Plaintiff will be seeking to amend to include injunctive
24 relief and orders that PHS and San Mateo County comply with the US and California constitutions
25 and not seize and kill animals over an owner's objection absent court approval or other appropriate
26 due process of law. In addition, Plaintiff intends to make other amendments to clarify the legal
27 and factual theories in the complaint. Plaintiff will seek a stipulation to the amendment and
28 expects to have the proposed amendment to Defendants by early next week.

1 6. Evidence Preservation: Any evidence that Plaintiff could preserve was preserved.

2 7. Disclosure Requirements. The following is a description of the initial disclosures:
3 *Plaintiff's initial disclosures*:

4 Plaintiff has served her disclosures in August. Plaintiff has already identified witnesses,
5 produced documents, and responded to discovery including her deposition (not completed) and
6 both her parents. Plaintiff has already produced all documents she is aware of that should be
7 identified in her initial disclosures.

8 8. Discovery: Significant discovery related to the federal action has already occurred
9 in the underlying state court action. However, to date, parties have not stipulated that the
10 discovery be applicable to both actions because Defendants have declined to so stipulate. Plaintiff
11 intends to conduct discovery directed toward the actual practices and policies of the County of San
12 Mateo including by and through the Peninsula Humane Society under circumstances similar to
13 what occurred in this case. Plaintiff proposes the following Discovery Plan:

<u>Discovery</u>	<u>Party</u>	<u>Date</u>
Interrogatories	Plaintiff	November 2008
Requests for Admission	Plaintiff	November 2008
Document Demands	Plaintiff	November 2008
Depositions of Defendants and party related witnesses	Plaintiff	December 2008

19 Plaintiff will seek a protective order to prevent more than one deposition of her or her
20 parents considering their deposition on identical claims has been taken in the last month.

21 9. Class Actions: Not Applicable.

22 10. Related Cases: There is currently a related state court case in the San Mateo
23 County Superior Court, Case No. 461009. The related case is likely to be identical to this one as
24 far as the pleadings are concerned, other than the 42 USC 1983 cause of action which is likely to
25 remain solely in this action. Plaintiff has requested that the defendants stipulate that all claims can
26 be brought in this action. To date, defendants refuse to so agree.

27 11. Relief: Plaintiff seeks employment losses of approximately \$100,000 damages
28 include lost time from work resulting in a year's delay of the grant of her Ph.D., emotional

1 distress, the value of the dog to Plaintiff and not any so-called market value, and punitive
2 damages.

3 Defendants contend relief, if any, should be limited to the value of her dog.

4 12. Settlement and ADR: The parties have stipulated to participation in the federal
5 court's mediation program.

6 13. Consent to Magistrate Judge for All Purposes: Defendants HADDAD will stipulate
7 to trial by a Magistrate Judge. Plaintiff will not presently stipulate to a trial by a Magistrate Judge.

8 14. Other References: NA.

9 15. Narrowing of Issues: NA

10 16. Expedited Schedule: NA

11 17. Scheduling:

12 Action

Proposed Date

13 Designation of Experts: December 2008

14 Discovery Cutoff: January 31, 2009

15 Hearing of Dispositive Motions: January 2009

16 Pretrial Conference:

17 Trial: February 2009

18 18. Trial: Plaintiff demands a jury trial with a time estimate of 7 days.

19 19. Disclosure of Non-party Interested Entities or Persons: Plaintiff knows of no
20 interest that the Court has in the subject matter or parties to this action that would require recusal.

21 20. Other Matters: Plaintiff seeks the court's help in having all issues raised in this
22 action and moot the state court action. She also seeks a court order that all depositions taken in
23 either action are deemed taken in both actions. Defendants County of San Mateo and Peninsula
24 Humane Society have threatened a Rule 11 motion directed to numerous legal arguments and facts
25 asserted by Plaintiff. The threats themselves are baseless to the point of frivolousness and are an
26 unlawful intimidation tactic by Defendants. They will also unnecessarily increase the expense of
27 this litigation.. Moreover, Plaintiff seeks court involvement at the first meeting to set depositions
28 of Defendants' witnesses. Plaintiff will request the court require Defendants to state firm dates for
deposition of their witnesses. Plaintiff has been deposed on liability in full and is available to

1 finish her deposition on damages. Plaintiff seeks an order that the entirety of her deposition will
2 take less than seven hours and she will not be deposed again nor will her parents.

3
4 Dated: October 8, 2008

_____/s/_____
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Daniel Berko, Attorney for Plaintiff
Tamara Doukas